

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2005 MAY 27 PM 1:56

U.S. DISTRICT COURT  
DISTRICT OF MASS

TRUSTEES OF THE PLUMBERS & )  
PIPEFITTERS' NATIONAL PENSION )  
FUND; TRUSTEES OF THE PLUMBERS )  
AND PIPEFITTERS INTERNATIONAL )  
TRAINING FUND; TRUSTEES OF THE )  
LOCAL UNION NO. 4 HEALTH & )  
WELFARE FUND; PENSION FUND; )  
ANNUITY FUND, JOINT APPRENTICE )  
TRAINING FUND; INDUSTRY FUND; )  
BUILDING & RELIEF FUND and )  
PLUMBERS AND PIPEFITTERS UNION )  
LOCAL 4 )

Plaintiffs )

v. )

STERLING PLUMBING AND )  
HEATING, CO., INC )

Defendant and Third-Party Plaintiff )

and MANUEL A. PACHECO )

Defendant )

v. )

CONSTRUCTION MANAGEMENT & )  
BUILDERS, INC., CRANSHAW )  
CONSTRUCTION and WHITING )  
TURNER CONTRACTING CO., INC. )

Third Party Defendants )

CIVIL ACTION NO: 05-CV-10714 PBS

MOTION FOR WAIVER OF  
ELECTRONIC FILING

Now comes the Defendant and Third-party Plaintiff, Sterling Plumbing and Heating, Inc. by its counsel and requests a waiver of the electronic filing requirement. As grounds for this request the Defendant states as follows:

1. The Defendant is a small plumbing subcontractor located in Sterling, Massachusetts. It is a company with limited funds. As is evidenced by the suit, the Defendant is the subject of allegations of rather large liabilities.
2. Defendant's counsel is a construction attorney who practices in Utah, Idaho, Colorado and Massachusetts. Counsel's Massachusetts office is essentially a sole practice.
3. Counsel has broad experience with electronic filing in the federal court, probably broader than most practitioners in the Commonwealth. However, in Massachusetts, counsel's practice is substantially limited to the state courts, which is reflected in the staffing of the office.
4. Based upon counsel's experience, electronic filing presents unique hazards in the construction area, where many of the documents and exhibits are hand-written field documents that do not scan well or reduce to electronic form. In addition, construction cases often involve large blueprints and other schematic diagrams that do not reduce to electronic form with any degree of legibility. The vast majority of construction documents do not feed into the scanner of the typical law firm for reduction to electronic form. This has been a repetitive, time-consuming and continuous problem. It is also counsel's experience that electronic filing is an office specialty which only becomes cost effective when conducted in numerous cases.
5. It is especially not cost-effective in matters such as construction cases which have unusual documentation. It is counsel's experience that electronic filing creates an unfair advantage for large law firms with substantial federal filings and expensive computer equipment, and may even constitute denial of due process under the Fifth Amendment for less well-heeled litigants.

6. Although counsel has many cases in the federal courts in Massachusetts, no other cases in counsel's office require electronic filing. Thus, for this one case, counsel would be required to train one individual as to the requirements of electronic filing. Because this case will only require sporadic filings, it will cost the Defendant substantial funds simply to comply with filing requirements. These funds would be better spent on the actual legal work necessary to protect the Defendant's rights.
7. As a result, the electronic filing will be time consuming and burdensome for counsel, which will result in larger legal bills for the Defendant.
8. Pursuant to the local rules, Defendant's counsel has consulted with Plaintiff's counsel regarding this motion, and Plaintiff's counsel has no objection to this motion. The Defendant requests that the waiver be extended to all parties in this case.
9. Based upon the onerous requirements of electronic filing in a case of this nature, the Defendant respectfully requests a waiver of this requirement.

Respectfully Submitted,  
**Sterling Plumbing & Heating**  
By its attorney,

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Robert N. Meltzer, BBO #564745  
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Phone: (508) 872-7116

Dated: May 25, 2005

**CERTIFICATE OF SERVICE**

I, Robert N. Meltzer, do hereby certify that on this date I have served the foregoing on all counsel of record by mailing the same, postage prepaid, to:

Robert M. Cheverie & Associates  
Commerce Center One  
333 East River Drive, Suite 101  
East Hartford, CT 06108-4203  
Attn: Tom Brockett, Esq.



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May 25, 2005